Chapter 15: Minor Personal Protection Order Proceedings

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This chapter contains discussion of the substantive and procedural rules governing personal protection order (PPO) proceedings involving a minor respondent. For a more complete discussion of PPO laws and procedures, see Lovik, *Domestic Violence Benchbook: A Guide to Civil & Criminal Proceedings, Second Edition* (MJI, 2001), Chapters 6–8. A PPO is a court order that prohibits or requires certain actions by a respondent and provides penalties for its violation. Personal protection orders are enforced in contempt proceedings. For a detailed discussion of contempt of court, see *Contempt of Court Benchbook—Revised Edition* (MJI, 2000). Conduct that violates a PPO may also violate a criminal law. In such cases, a juvenile who commits an offense that would be a criminal offense if committed by an adult may also be subject to delinquency or criminal proceedings as discussed in other portions of this benchbook.

Rules governing appeals in minor PPO proceedings are discussed in Section 24.4. Fingerprinting and reporting requirements are discussed in Sections 25.11–25.14.

> **Note on court rules.** On February 4, 2003, the Michigan Supreme Court approved extensive amendments to Subchapter 5.900 of the Michigan Court Rules, which govern delinquency, minor PPO, designated case, and "traditional waiver" proceedings, and to Subchapter 6.900, which govern "automatic waiver" proceedings. Subchapter 5.900 was renumbered Subchapter 3.900. These rule amendments are effective May 1, 2003. Although not in effect on the publication date of this benchbook, the rule amendments have been included here. For the rules in effect prior to May 1, 2003, see the first edition of

this benchbook, *Juvenile Justice Benchbook:Delinquency & Criminal Proceedings* (MJI, 1998).

15.1 Rules Applicable to Minor PPO Proceedings

Issuance, dismissal, modification, and termination of a PPO. If the respondent is under age 18, issuance of a PPO is subject to the Juvenile Code. MCL 600.2950(28) and MCL 600.2950a(26). Issuance, dismissal, modification, and termination proceedings in PPO actions under the Juvenile Code are governed by subchapter 3.700 of the Michigan Court Rules. See MCR 3.701(A) and MCR 3.981.

PPO actions with a petitioner under age 18 are generally subject to the same issuance procedures that apply in actions with an adult petitioner, although MCR 3.703(F)(1) requires a minor petitioner or a legally incapacitated individual to proceed through a next friend.

Enforcement of a PPO. Proceedings to enforce a PPO against a respondent under age 18 are governed by subchapter 3.900 of the Michigan Court Rules. MCR 3.701(A), MCR 3.708(A)(2), and MCR 3.982(B). The rules exclusively applicable to such proceedings are set forth at MCR 3.982–3.989. See MCR 3.901(B)(5). If the respondent is 18 years old or older when an alleged violation occurs, enforcement proceedings are governed by MCR 3.708. MCR 3.708(A)(2).

Appeals. Procedures on appeals related to minor PPOs are governed by MCR 3.709 and 3.993. MCR 3.981.*

*See Section 24.4.

Rules inapplicable to PPO proceedings. The provisions of MCR 3.310 (regarding injunctions) and MCR 2.119 (regarding motions) do not apply to any type of PPO action. See MCR 3.701(A) and 3.702(2).

15.2 Jurisdiction of Minor PPO Proceedings

MCL 712A.2(h) gives the Family Division jurisdiction over minor respondents between the ages of 10 and 18 years old in personal protection order (PPO) proceedings under both the domestic relationship PPO statute, MCL 600.2950, and the non-domestic relationship stalking PPO statute, MCL 600.2950a. See MCL 712A.1(1)(f) ("'[p]ersonal protection order' means a personal protection order issued under [MCL 600.2950 or 600.2950a], and includes a valid foreign protection order").* MCL 712A.2(h) states, in part:

*See Section 15.23, below, for discussion of foreign protection orders.

> "[The Family Division has] [j]urisdiction over a proceeding under . . . MCL 600.2950 and 600.2950a, in which a minor less than 18 years of age is the respondent, or a proceeding to enforce a valid foreign protection order issued against a respondent who is a minor less than 18 years of age. A personal protection order shall not be issued against a respondent who is a minor less than 10 years of age."*

*MCL 600.2950 (27)(c) and MCL 600.2950a (25)(c) also prohibit issuing a PPO if the respondent is less than 10 years of age.

If the court exercises its jurisdiction under this provision, jurisdiction continues until the order expires, even if the respondent reaches adulthood during that time. MCL 712A.2a(3). However, "action regarding the personal protection order after the respondent's eighteenth birthday shall not be subject to [the Juvenile Code]." *Id*. Instead, the court would apply adult PPO laws and procedures to actions regarding the PPO after the respondent's 18th birthday. MCR 3.708(A)(2). Although they are subject to the enforcement *procedures* for minor respondents, violations committed on or after the respondent's 17th birthday are subject to adult *penalties*. MCL 600.2950(11)(a)(i) and MCL 600.2950a(8)(a)(i). Moreover, 17 year olds are subject to adult arrest procedures and incarceration. MCL 600.2950(11)(a)(ii) and (23), MCL 600.2950a(8)(a)(ii) and (20), MCL 764.15b(1)(c), MCL 712A.14(1), MCL 712A.15(5), MCR 3.706(A)(3), MCR 3.984(C), and MCR 3.985(D)(2).

Jurisdiction of contempt proceedings. MCL 764.15b(6) provides that the Family Division has jurisdiction to conduct contempt proceedings based upon a violation of a PPO:

> "The family division of circuit court has jurisdiction to conduct contempt proceedings based upon a violation of a personal protection order issued pursuant to [MCL 712A.2(h)] by the family division of circuit court in any county of this state or a valid foreign protection order issued against a respondent who is less than 18 years of age at the time of the alleged violation of the foreign protection order in this state."

Definition of "minor." "'Minor' means a person under the age of 18, and may include a person of age 18 or older over whom the court has continuing jurisdiction pursuant to MCL 712A.2a." MCR 3.903(A)(15). See also MCR 3.702(6), which defines "minor" as a person under age 18.

15.3 Venue

Venue for the initial action is proper in the county of residence of either the petitioner or respondent. If the respondent does not live in this state, venue for the initial action is proper in the petitioner's county of residence. MCL 712A.2(h) and MCR 3.703(E)(2).*

*See also Section 15.7, below, for transfer of a case to the issuing jurisdiction for enforcement proceedings.

15.4 Prohibition Against Issuing PPO When Parent-Child Relationship Exists

A PPO may not be issued if the petitioner and respondent have a parent-child relationship and the child is an unemancipated minor. MCL 600.2950(27) and MCL 600.2950a(25). MCL 600.2950(27)(a)–(b) and MCL 600.2950a(25)(a)–(b) prohibit a court from issuing a PPO if either:

- the unemancipated respondent is the petitioner's minor child, or
- the unemancipated petitioner is the respondent's minor child.

Alternative remedies may be available in these situations. For example, if an unemancipated minor under 17 years old violates a criminal law or ordinance, jurisdiction may be proper under MCL 712A.2(a)(1). Jurisdiction may also be proper under MCL 712A.2(a)(3) if the minor is under 17 years old and "is repeatedly disobedient to the reasonable and lawful commands of his or her parent, guardian, or custodian and the court finds on the record by clear and convincing evidence that court-accessed services are necessary."*

*See Sections 2.3 (jurisdiction of status offenses) and 2.5 (jurisdiction of delinquency cases).

15.5 Mutual Orders Prohibited

The court may not issue mutual personal protection orders. However, correlative separate orders are permitted if both parties properly petition the court, and if the court makes separate findings that support an order against each party. MCL 600.2950(8), MCL 600.2950a(5), and MCR 3.706(B). The court has no authority under the Michigan PPO statutes to accept the parties' stipulation to a mutual protection order.*

*See also Section 15.23, below, for a similar rule applicable to foreign protection orders.

15.6 Required Procedures Where Prior Orders or Judgments Affect the Parties

MCR 3.703(D) and MCR 3.706(C) contain procedural requirements for situations where there are other pending actions or prior orders or judgments affecting the parties to the PPO petition:

- If the PPO petition is filed in the same court where the pending action was filed or the prior order or judgment was entered, the

PPO petition shall be assigned to the same judge. MCR 3.703(D)(1)(a).

- If there are pending actions in another court or orders or judgments already entered by another court affecting the parties, the court in which the PPO petition was filed should contact the other court, if practicable, to determine any relevant information. MCR 3.703(D)(1)(b).
- If a prior court action resulted in an order providing for continuing jurisdiction of a minor, and the petition requests relief with regard to the minor, the court considering the PPO petition must comply with the notice requirements of MCR 3.205. MCR 3.703(D)(2).*

*See Section 2.19 for discussion of MCR 3.205.

15.7 Transfer of Minor PPO Proceedings to Issuing Court for Enforcement

When a minor who has allegedly violated a PPO is apprehended in a county other than the county in which the PPO was issued, the case may be transferred to the issuing county for enforcement proceedings. MCR 3.984(E) allows an official in the apprehending jurisdiction to notify the issuing jurisdiction that it may request transfer of the minor to the issuing jurisdiction for enforcement proceedings. That rule states as follows:

> "Subject to MCR 3.985(H), if a minor is apprehended for violation of a minor personal protection order in a jurisdiction other than the jurisdiction where the minor personal protection order was issued, the apprehending jurisdiction may notify the issuing jurisdiction that it may request that the respondent be returned to the issuing jurisdiction for enforcement proceedings."

MCR 3.985(H) requires the apprehending jurisdiction to notify the issuing jurisdiction that it may request transfer of the case. This notice must be provided after the apprehending jurisdiction conducts a preliminary hearing if it hasn't provided such notification before that time. *Id.*

Although the agency that must provide the notification is not specified in the court rules, MCL 764.15b(6) suggests that the court must provide the notification. That statute states in relevant part:

> "The family division of circuit court that conducts the preliminary inquiry shall notify the court that issued the personal protection order or foreign protection order that the issuing court may request that the respondent be returned to that county for violating the personal protection order or foreign protection order. If the court

> that issued the personal protection order or foreign protection order requests that the respondent be returned to that court to stand trial, the county of the requesting court shall bear the cost of transporting the respondent to that county."

15.8 Authority of Referees to Conduct Proceedings

A non-attorney referee may conduct a preliminary hearing on an alleged violation of a PPO, and an attorney referee may conduct any hearing to enforce a PPO. MCR 3.913(A)(2)(d) states:

> "(5) *Minor Personal Protection Actions.* A nonattorney referee may preside at a preliminary hearing for enforcement of a minor personal protection order. Only a referee licensed to practice law in Michigan may preside at any other hearing for the enforcement of a minor personal protection order and make recommended findings and conclusions."

Demand for judge to preside at a non-jury trial in minor PPO proceeding. A judge may conduct a nonjury trial in a minor PPO proceeding if a proper demand has been made. Parties have a right to a judge at a hearing on the formal calendar. MCR 3.912(B). MCR 3.903(A)(10) defines "formal calendar" as judicial proceedings other than a delinquency proceeding on the consent calendar, a preliminary inquiry, or a preliminary hearing of a delinquency proceeding. The right to have a judge sit as factfinder is not absolute, however. A party who fails to make a timely demand* for a judge to serve as factfinder may find that a referee will conduct all further proceedings, and that the right to demand a judge has been waived. MCR 3.913(B) provides that unless a party has demanded a trial by judge or jury, a referee may conduct the trial and further proceedings through the dispositional phase.

*See Section 7.10 for further discussion of demands for a judge to serve as factfinder.

15.9 Domestic Relationship PPOs Under MCL 600.2950

The Legislature has created two types of personal protection orders, distinguished by the categories of persons who may be restrained:

- "Domestic relationship PPOs" under MCL 600.2950 are available to restrain behavior (including stalking) that interferes with the petitioner's personal liberty, or that causes a reasonable apprehension of violence, if the respondent is involved in certain domestic relationships with the petitioner as defined by the statute.

- "Non-domestic stalking PPOs" under MCL 600.2950a are available to enjoin stalking behavior by any person, regardless of that person's relationship with the petitioner.

This section addresses the substantive prerequisites for issuing domestic relationship PPOs. The substantive prerequisites for issuing non-domestic stalking PPOs are discussed in Section 15.10. Procedures for issuing both types of PPOs are the subject of Sections 15.11–15.12.

A. Persons Who May Be Restrained

If the respondent falls into any one of the following categories described in MCL 600.2950(1), a domestic relationship PPO is appropriate (even if the offensive behavior amounts to stalking):

- The petitioner's spouse or former spouse.
- A person with whom the petitioner has had a child in common.
- A person who resides *or* who has resided in the same household as the petitioner.
- A person with whom the petitioner has *or* has had a "dating relationship."

The statute puts no time limitation on the foregoing domestic relationships that have occurred in the petitioner's past.

"Dating relationship" is defined in the statute as "frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context." MCL 600.2950(30)(a).

*See Section 15.4, above.

Residents of the petitioner's household. MCL 600.2950(1) permits the court to restrain "an individual residing or having resided in the same household as the petitioner." Although the statute specifically prohibits issuance of a domestic relationship PPO if the petitioner and respondent have a parent-child relationship and the child is an unemancipated minor, MCL 600.2950(27),* it contains no other limitations as to the nature of the relationship between a petitioner and respondent living in the same household.

*The domestic assault statute applies to a person who assaults "a resident or former resident of his or her household."

The Court of Appeals has addressed the scope of similar language in the criminal domestic assault statute, MCL 750.81(2).* In *In re Lovell*, 226 Mich App 84 (1997), the prosecutor filed a petition charging a 16-year-old girl with assaulting her mother under MCL 750.81(2). The probate court refused to issue the petition, holding that the statute did not apply to assaults by children against parents. The prosecutor appealed to the circuit court,

which also affirmed. The Court of Appeals reversed the lower courts' decision, holding that:

> "When a statute is clear and unambiguous, judicial interpretation is precluded. . . . Courts may not speculate regarding the probable intent of the Legislature beyond the words expressed in the statute. . . . [The statute] applies to offenders who resided in a household with the victim at or before the time of the assault . . . regardless of the victim's relationship with the offender." *Lovell, supra* at 87.

In so holding, the Court expressed no opinion as to whether its holding would permit application of the statute to assaultive behavior between college roomates who were not romantically involved. The dissenting judge on the *Lovell* panel would have required residence in the household plus a romantic involvement to trigger coverage under MCL 750.81(2).

B. Prohibited Conduct

Under MCL 600.2950(1)(a)–(j), a domestic relationship PPO may enjoin one or more of the following acts:

> "(a) Entering onto premises.
>
> "(b) Assaulting, attacking, beating, molesting, or wounding a named individual.*
>
> "(c) Threatening to kill or physically injure a named individual.
>
> "(d) Removing minor children from the individual having legal custody of the children, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.
>
> "(e) Purchasing or possessing a firearm.
>
> "(f) Interfering with petitioner's efforts to remove petitioner's children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined.
>
> "(g) Interfering with petitioner at petitioner's place of employment or education or engaging in conduct that impairs petitioner's employment or educational relationship or environment.

*The named individual need not be the petitioner.

> "(h) Having access to information in records concerning a minor child of both petitioner and respondent that will inform respondent about the address or telephone number of petitioner and petitioner's minor child or about petitioner's employment address.
>
> "(i) Engaging in conduct that is prohibited under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i [i.e., stalking and aggravated stalking].
>
> "(j) Any other specific act or conduct that imposes upon or interferes with personal liberty or that causes a reasonable apprehension of violence."

Under MCL 600.2950(5), the court may not restrain the respondent from entering onto premises if *all* of the following apply:

> "(a) The individual to be restrained or enjoined is not the spouse of the moving party.
>
> "(b) The individual to be restrained or enjoined or the parent, guardian, or custodian of the minor to be restrained or enjoined has a property interest in the premises.
>
> "(c) The moving party or the parent, guardian, or custodian of a minor petitioner has no property interest in the premises."

C. Standard for Issuing a Domestic Relationship PPO

The burden of proof that a domestic relationship PPO should issue is on the petitioner because the court must make a positive finding of prohibited behavior by the respondent before issuing a PPO. *Kampf v Kampf*, 237 Mich App 377, 386 (1999).

MCL 600.2950(4) articulates the standard for issuing a domestic relationship PPO as follows:

*These acts are listed in Section 15.9(B), immediately above.

> "The court *shall* issue a personal protection order under this section if the court determines that there is *reasonable cause* to believe that the individual to be restrained or enjoined may commit 1 or more of the acts listed in [MCL 600.2950(1)].* In determining whether reasonable cause exists, the court shall consider all of the following:

> "(a) Testimony, documents, or other evidence offered in support of the request for a personal protection order.
>
> "(b) Whether the individual to be restrained or enjoined has previously committed or threatened to commit 1 or more of the acts listed in [MCL 600.2950(1)]." [Emphasis added.]

In a criminal case, "reasonable cause" is shown by facts leading a fair-minded person of average intelligence and judgment to believe that an incident has occurred or will occur. See *People v Richardson,* 204 Mich App 71, 79 (1994), construing the term "reasonable cause" in the warrantless arrest statute, MCL 764.15(1)(c). In a case involving a warrantless arrest for violation of a PPO, the Court of Appeals noted that "reasonable cause" to make an arrest means "having enough information to lead an ordinarily careful person to believe that the defendant committed a crime. CJI2d 13.5(4)." *People v Freeman,* 240 Mich App 235, 236 (2000).

Under MCL 600.2950(6), the court may not refuse to issue a PPO solely due to the absence of:

- a police report;
- a medical report;
- an administrative agency's finding or report; or
- physical signs of abuse or violence.

MCL 600.2950(12) sets forth the following standard for cases in which the petition requests an ex parte PPO:

> "An ex parte personal protection order shall be issued and effective without written or oral notice to the individual restrained or enjoined or his or her attorney if it clearly appears from specific facts shown by verified complaint, written motion, or affidavit that immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before a personal protection order can be issued."*

*See also MCR 3.703(G), which contains similar language.

The mandatory language in the above provision differs from the corresponding standard for issuing an ex parte PPO under the non-domestic stalking PPO statute. See MCL 600.2950a(9), cited in Section 15.10(D), below, which provides that an ex parte stalking PPO "shall *not* be issued . . . *unless* it clearly appears from specific facts . . . that immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before a personal protection order can be issued."

The Michigan Court of Appeals has held that an ex parte personal protection order issued under MCL 600.2950(12) does not violate due process. *Kampf, supra* at 383–85.

15.10 Non-Domestic Stalking PPOs Under MCL 600.2950a

The Legislature has created two types of personal protection orders, distinguished by the categories of persons who may be restrained:

- "Non-domestic stalking PPOs" under MCL 600.2950a are available to enjoin stalking behavior by any person, regardless of that person's relationship with the petitioner.
- "Domestic relationship PPOs" under MCL 600.2950 are available to enjoin behavior (including stalking) that interferes with the petitioner's personal liberty, or that causes a reasonable apprehension of violence if the respondent is involved in certain domestic relationships with the petitioner as defined by the statute.

This section addresses the substantive prerequisites for issuing non-domestic stalking PPOs. The substantive prerequisites for issuing domestic relationship PPOs are discussed in Section 15.9. Procedures for issuing both types of PPOs are addressed in Section 15.11–15.12.

A. Persons Who May Be Restrained

MCL 600.2950a authorizes the Family Division of Circuit Court to issue a PPO restraining stalking as defined in MCL 750.411h, or aggravated stalking as defined in MCL 750.411i. This relief is available without the need to establish a prior relationship between the petitioner and the respondent. A non-domestic stalking PPO is thus available to restrain *anyone* who is stalking, including a stranger to the petitioner.

B. Petitioner May Not Be a Prisoner

A court must not enter a non-domestic stalking PPO if the petitioner is a prisoner. MCL 600.2950a(28). A "prisoner" is a "person subject to incarceration, detention, or admission to a prison who is accused of, convicted of, sentenced for, or adjudicated delinquent for violations of federal, state, or local law or the terms and conditions of parole, probation, pretrial release, or a diversionary program." MCL 600.2950a(29)(d).

If a PPO is issued in violation of the foregoing prohibition, the court must rescind the PPO upon notification and verification that the petitioner is a prisoner. MCL 600.2950a(28).

C. Prohibited Conduct—Stalking and Aggravated Stalking

MCL 600.2950a permits the circuit court to restrain stalking and aggravated stalking as defined in the criminal stalking statutes. The respondent need not have been convicted or adjudicated of a violation of the criminal stalking statutes. MCL 600.2950a(1).

"Stalking" is a misdemeanor under MCL 750.411h. Subsection (1)(d) of this statute defines "stalking" as:

- "[A] willful course of conduct involving repeated or continuing harassment of another individual";
- "[T]hat would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested"; and,
- "[T]hat actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested." In a criminal prosecution for stalking, evidence that the defendant continued to make unconsented contact with the victim after the victim requested the defendant to cease doing so raises a rebuttable presumption that the continued contact caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested. MCL 750.411h(4).

The following definitions further explain this offense:

- A "course of conduct" involves "a series of 2 or more separate, non-continuous acts evidencing a continuity of purpose." MCL 750.411h(1)(a).
- "Harassment" means conduct including, but not limited to, "repeated or continuing unconsented contact, that would cause a reasonable person to suffer emotional distress, and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose." MCL 750.411h(1)(c).
- Under MCL 750.411h(1)(e), "unconsented contact" means "any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or

discontinued." Unconsented contact includes, but is not limited to:

— Following or appearing within the victim's sight.

— Approaching or confronting the victim in a public place or on private property.

— Appearing at the victim's workplace or residence.

— Entering onto or remaining on property owned, leased, or occupied by the victim.

— Contacting the victim by phone, mail, or electronic communications.

— Placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

- "Emotional distress" means significant mental suffering or distress that may, but does not necessarily require, medical or other professional treatment or counseling. MCL 750.411h(1)(b).

Under MCL 750.411i(2), a person who engages in stalking is guilty of the felony of aggravated stalking if the violation involves any of the following circumstances:

- At least one of the actions constituting the offense is in violation of a restraining order of which the offender has actual notice, or at least one of the actions is in violation of an injunction or preliminary injunction. There is no language in the aggravated stalking statute stating that the order violated must have been issued by a Michigan court — violations of sister state or tribal protection orders may also constitute aggravated stalking.

- At least one of the actions constituting the offense is in violation of a condition of probation, parole, pretrial release, or release on bond pending appeal.

- The person's conduct includes making one or more credible threats against the victim, a family member of the victim, or another person living in the victim's household. Under MCL 750.411i(1)(b), a "credible threat" is a threat to kill or to inflict physical injury on another person, made so that it causes the person hearing the threat to reasonably fear for his/her own safety, or for the safety of another.

- The offender has been previously convicted of violating either of the criminal stalking statutes.

In addition to conduct prohibited under the criminal stalking and aggravated stalking statutes, a non-domestic stalking PPO may enjoin an individual from purchasing or possessing a firearm. MCL 600.2950a(23). Special procedural requirements apply where the restrained party is issued a license to carry a concealed weapon and is required to carry a firearm as a condition of his or her employment.*

*Discussion of these procedural requirements is beyond the scope of this benchbook. See Lovik, *Domestic Violence Benchbook: A Guide to Civil & Criminal Proceedings, Second Edition* (MJI, 2001), Sections 6.5(B) and 6.7(B).

A non-domestic stalking PPO is not an appropriate method for dealing with disputes between neighbors or coworkers in which the parties' behavior is not of the type described in the criminal stalking and aggravated stalking statutes. Community dispute resolution and district court peace bonds are better ways of addressing such disputes.

D. Standard for Issuing a Non-Domestic Stalking PPO

Relief under the non-domestic stalking PPO statute shall *not* be granted *unless*:

> "the petition alleges facts that constitute stalking as defined in section 411h or 411i of the Michigan penal code . . . MCL 750.411h and 750.411i. Relief may be sought and granted under this section whether or not the individual to be restrained or enjoined has been charged or convicted under section 411h or 411i of the Michigan penal code." MCL 600.2950a(1).

MCL 600.2950a(9) sets forth the following standard for cases in which the petition requests an ex parte PPO:

> "An ex parte personal protection order shall not be issued and effective without written or oral notice to the individual enjoined or his or her attorney unless it clearly appears from specific facts shown by verified complaint, written motion, or affidavit that immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before a personal protection order can be issued."*

*See also MCR 3.703(G), which contains similar language.

This standard does not contain the mandatory language that appears in the corresponding provision of the domestic relationship PPO statute. See MCL 600.2950(12), cited in Section 15.9(C), above.

15.11 Procedures for Issuing PPOs

A. Next Friends and Guardians ad Litem

*A "minor" is a person under age 18 for purposes of subchapter 3.700. MCR 3.702(6).

A petitioner is not required to hire an attorney to obtain a PPO. MCL 600.2950(b)(1). If the petitioner is a minor* or a legally incapacitated individual, MCR 3.703(F)(1) provides that he or she "shall proceed through a next friend." The petitioner must certify that the next friend is an adult who is not disqualified by statute. *Id.* MCR 3.703(F)(2) further provides that:

- "Unless the court determines appointment is necessary, the next friend may act on behalf of the minor or legally incapacitated person without appointment."
- "[T]he court *shall* appoint a next friend if the minor is less than 14 years of age." [Emphasis added.]
- "The next friend is not responsible for the costs of the action."

*See Section 5.7(E) for further discussion of guardians ad litem.

In addition, a court may appoint a guardian ad litem for a minor involved as a respondent in a PPO proceeding under MCL 712A.2(h). Guardians ad litem are not attorney-advocates for respondents in juvenile proceedings.*

> **Note:** A problem may arise when a parent acting as next friend of his or her minor child petitions for a PPO in an effort to discourage a relationship between the child and the juvenile respondent. The minor child may not feel threatened by the juvenile respondent's conduct. In such cases, the judge should assure that the standard for issuing a PPO has been met. See Sections 15.9(C) and 15.10(D), above.

B. Concurrent Proceedings

*MCR 1.104. See MCL 600.2950(1) and MCL 600.2950a(1).

A petition for a PPO is filed in Family Division of Circuit Court. See MCL 712A.2(h). The petition must be filed as an independent action. MCR 3.702(2). A PPO action may not be commenced by filing a motion in an existing case or by joining a claim to an action. MCR 3.703(A). Because court rules supersede procedural rules set forth in statute, MCR 3.703(A) abrogates statutory provisions that would permit a PPO petition to be joined as a claim with another action or filed as a motion in a pending action.* Treatment of the PPO petition as a separate action protects the petitioner by ensuring that the PPO will not automatically terminate upon conclusion of the separate matter in which it would otherwise have been filed or joined under the statutes.

C. Filing Fee

There is no fee for filing a PPO petition, and no summons is issued. MCL 600.2529(1)(a) and MCR 3.703(A). However, a petitioner may be responsible for fees for service of pleadings if he or she is not indigent.

D. Distributing and Completing Forms

Pursuant to MCL 600.2950b and MCR 3.701(B), the State Court Administrative Office has approved standardized PPO forms. See SCAO Form CC 375 et seq. These forms are intended for use by parties who wish to proceed without an attorney. Regarding distribution of the forms, MCL 600.2950b(4) provides as follows:

> "The court shall provide a form prepared under this section without charge. Upon request, the court may provide assistance, but not legal assistance, to an individual in completing a form prepared under this section and the personal protection order form if the court issues such an order, and may instruct the individual regarding the requirements for proper service of the order."

MCR 3.701(B) similarly provides that PPO forms approved by the State Court Administrative Office "shall be made available for public distribution by the clerk of the circuit court."

Courts are authorized by statute to provide domestic violence victim advocates to assist petitioners in obtaining a PPO. A court may use the services of a public or private agency or organization that has a record of service to victims of domestic violence to provide the assistance. MCL 600.2950c(1).

E. Contents of the Petition

MCR 3.703(B) and (D) address the contents of the petition. Under MCR 3.703(B), the petition must:

> "(1) be in writing;
>
> "(2) state with particularity the facts on which it is based;
>
> "(3) state the relief sought and the conduct to be restrained;
>
> "(4) state whether an ex parte order is being sought;

> "(5) state whether a personal protection order action involving the same parties has been commenced in another jurisdiction; and
>
> "(6) be signed by the party or attorney as provided in MCR 2.114. The petitioner may omit his or her residence address from the documents filed with the court, but must provide the court with a mailing address."*

*See also MCL 600.2950(3) and MCL 600.2950a(3).

Under MCR 3.703(D)(1), the petitioner must notify the court about other pending actions, orders, or judgments affecting the parties to a personal protection action. The court rule provides:

> "The petition must specify whether there are any other pending actions in this or any other court, or orders or judgments already entered by this or any other court affecting the parties, including the name of the court and the case number, if known."*

*See Section 15.6, above.

Where the respondent is under age 18, MCR 3.703(C) additionally requires that the petition must list the respondent's name, address and either age or date of birth. Moreover, the petition must list the names and addresses of the respondent's parent or parents, guardian, or custodian, if this is know or can be easily ascertained.

Persons who knowingly and intentionally make false statements to the court in support of a PPO petition are subject to being held in contempt of court. MCL 600.2950(24) and MCL 600.2950a(21).

F. Ex Parte Proceedings

The court must rule on a request for an ex parte PPO within 24 hours of the filing the petition. MCR 3.705(A)(1).

If the court issues an ex parte PPO, MCR 3.705(A)(2) requires the following:

> "In a proceeding under MCL 600.2950a [regarding non-domestic relations PPOs], the court must state in writing the specific reasons for issuance of the order. A permanent record or memorandum must be made of any nonwritten evidence, argument or other representations made in support of issuance of an ex parte order."

If the court denies the petition for ex parte relief, the court must do the following:

- Immediately state specific reasons in writing for refusing to issue the PPO. If a hearing is held, the court shall also

immediately state on the record the specific reasons for refusing to issue a PPO. MCL 600.2950(7), MCL 600.2950a(4), and MCR 3.705(A)(5).

- Advise the petitioner of the right to request a hearing. The court is excused from giving this advice if it "determines after interviewing the petitioner that the petitioner's claims are sufficiently without merit that the action should be dismissed without a hearing." MCR 3.705(A)(5).

- Schedule a hearing as soon as possible if the petitioner requests one. MCR 3.705(B)(1)(b). If the petitioner does not request a hearing within 21 days of entry of the court's order denying the request for an ex parte PPO, the court's order is final. MCR 3.705(A)(5). The court does not have to schedule a hearing if it "determines after interviewing the petitioner that the claims are sufficiently without merit that the action should be dismissed without a hearing." MCR 3.705(B)(1).

The Michigan Court of Appeals has held that an ex parte personal protection order issued under MCL 600.2950(12) does not violate due process. *Kampf v Kampf*, 237 Mich App 377, 383–85 (1999).

15.12 Procedures for Conducting a Hearing on the Issuance of a PPO

A. Scheduling a Hearing

Under MCR 3.705(B)(1), the court must schedule a hearing as soon as possible if:

- the petition does not request an ex parte order, or

- the court denies the petitioner's request for an ex parte order and the petitioner requests a hearing.

In both of the above circumstances, the court is excused from scheduling a hearing if it "determines after interviewing the petitioner that the claims are sufficiently without merit that the action should be dismissed without a hearing." MCR 3.705(B)(1).

B. Service of Notice of Hearing

After the court schedules a hearing, the petitioner must arrange for service of the petition and notice of the hearing on the respondent at least one day before the hearing. MCR 3.705(B)(2). The petitioner may not make service: service must be made by a legally competent adult who is not a party to the

action. MCR 2.103(A). Service on the respondent shall be made pursuant to MCR 2.105(A), which provides for service on a resident or nonresident by:

- delivery to the respondent personally, or
- delivery by registered or certified mail, return receipt requested, and delivery restricted to the addressee. Service is made when the respondent acknowledges receipt of the mail. A copy of the return receipt signed by the respondent must be attached to the proof showing service.

If the respondent is under age 18, and the whereabouts of the respondent's parent or parents, guardian, or custodian is known, service must also be similarly made on one of these individuals. MCR 3.705(B)(2).

C. Making a Record

The court must hold any hearing on a PPO petition on the record. MCR 3.705(B)(3). At the conclusion of a hearing on a PPO petition, the court shall immediately state the reasons for granting or denying a personal protection order on the record and enter an appropriate order. In addition, the court shall immediately state its reasons for denying a personal protection order in writing. MCL 600.2950(7), MCL 600.2950a(4), and MCR 3.705(B)(6). If the petition sought a non-domestic relations stalking PPO, the court must state in writing the specific reasons for issuing the PPO. MCL 600.2950a(4), and MCR 3.705(B)(6).

D. Effect of a Party's Failure to Attend a Scheduled Hearing

If the petitioner fails to attend a hearing scheduled on the PPO petition, the court may *either* adjourn and reschedule the hearing *or* dismiss the petition. MCR 3.705(B)(4).

If the respondent fails to appear at a hearing on a PPO petition and the court determines that the petitioner made diligent attempts to serve the respondent, whether the respondent was served or not, the PPO may be entered without further notice to the respondent if the court determines that the petitioner is entitled to relief. MCR 3.705(B)(5).

15.13 Required Provisions in a PPO

*MCR 3.706(A) provides similar requirements.

If the court grants a PPO petition, MCL 600.2950(11) and MCL 600.2950a(8) require that the resulting order contain the following information, in a single form "to the extent practicable":*

- A statement that the PPO has been entered. MCL 600.2950(11)(a) and MCL 600.2950a(8)(a).

- A statement regarding the penalties for violation of a PPO. *Id.*

  — If the respondent is age 17 or older, the PPO must state that a violation will subject the respondent to immediate arrest and to the civil and criminal contempt powers of the court, and that if the respondent is found guilty of criminal contempt, he or she shall be imprisoned for not more than 93 days and may be fined not more than $500.00. MCL 600.2950(11)(a)(i), MCL 600.2950a(8)(a)(i), and MCR 3.706(A)(3)(a).

  — If the respondent is less than 17 years of age, the PPO must state that a violation will subject the respondent to immediate apprehension or being taken into custody, and to the dispositional alternatives listed in MCL 712A.18.* MCL 600.2950(11)(a)(ii), MCL 600.2950a(8)(a)(ii), and MCR 3.706(A)(3)(b).

  *See Section 15.22(C), below, for more information on dispositional alternatives.

  — If the respondent violates the PPO in a jurisdiction other than Michigan, he or she is subject to the enforcement procedures and penalties of the jurisdiction where the violation occurred. MCL 600.2950(11)(a)(iii) and MCL 600.2950a(8)(a)(iii).

- A statement that the PPO is "effective and immediately enforceable anywhere in Michigan when signed by a judge, and that, upon service, a personal protection order also may be enforced by another state, an Indian tribe, or a territory of the United States." MCL 600.2950(11)(b) and MCL 600.2950a(8)(b). See also MCR 3.706(A)(2).

- A statement listing the type or types of conduct enjoined. MCL 600.2950(11)(c) and MCL 600.2950a(8)(c). See also MCR 3.706(A)(1). In listing the conduct enjoined, the following principles are helpful:

  — The prohibited acts listed in MCL 600.2950(1) and in the criminal stalking statutes are not automatically incorporated into every PPO: a PPO restrains the respondent only from doing the particular acts specified in the order.*

  *Sections 15.9(B) and 15.10(C) describe the conduct that may be restrained in a PPO.

  — The most effective PPO provisions fully specify the precise conditions of relief granted to the petitioner. Highly specific orders are easier to enforce because they give clear notice of the behavior that is prohibited, thus discouraging manipulative behavior by the parties.

- An expiration date stated clearly on the face of the order. MCL 600.2950(11)(d), MCL 600.2950a(8)(d), and MCR 3.706(A)(4). The following rules apply with regard to the duration of a PPO:

  — The statutes place no maximum limit on the duration of a PPO. Ex parte orders must be valid for at least 182 days. The

statutes have no minimum time provision for the duration of orders entered after a hearing with notice to the respondent. MCL 600.2950(13) and MCL 600.2950a(10).

— If the respondent is under age 18, the issuing court's jurisdiction continues over the respondent until the PPO expires, even if the expiration date is after the respondent's 18th birthday. MCL 712A.2a(3). Violations committed on or after the respondent's 17th birthday are subject to adult *penalties*, however. MCL 600.2950(11)(a)(i) and MCL 600.2950a(8)(a)(i). If a violation occurs after the respondent's 18th birthday, adult enforcement *procedures* apply, as well as adult penalties. MCL 712A.2a(3) and MCR 3.708(A)(2).

*See Section 15.14, below, on LEIN entry.

— A specific expiration date is needed for LEIN entry.* Because orders of "permanent" or "99 years" duration are difficult for police to enforce, the order must state the specific month, day, and year of expiration.

- A statement that the PPO is "enforceable anywhere in Michigan by any law enforcement agency." MCL 600.2950(11)(e), MCL 600.2950a(8)(e), and MCR 3.706(A)(5).

- The name of the law enforcement agency that the court has designated for entering the PPO into the LEIN network. MCL 600.2950(11)(f), MCL 600.2950a(8)(f), and MCR 3.706(A)(6).

*See Section 15.17 on motions to terminate or modify.

- If the PPO was issued ex parte, a statement that the restrained person may move to modify or terminate it, and may request a hearing within 14 days after service or actual notice of the order.* The PPO must state that motion forms and filing instructions for this purpose are available from the court clerk. MCL 600.2950(11)(g), MCL 600.2950a(8)(g), and MCR 3.706(A)(7).

15.14 Entry of the Order Into the Law Enforcement Information Network (LEIN)

After issuance of a PPO, the clerk of the court has the following responsibilities to facilitate entry of the PPO and other related documents into the Law Enforcement Information Network (LEIN) system:

- Immediately upon issuance, and without requiring proof of service, the court clerk must file a true copy of the PPO with the court-designated law enforcement agency that will enter it into the LEIN network. MCL 600.2950(15)(a) and MCL 600.2950a(12)(a).

- The court clerk must provide the petitioner with no less than two true copies of the PPO, and inform the petitioner that he or she may take a copy to the designated law enforcement agency for entry into the LEIN network. MCL 600.2950(15)(b) and (16) and MCL 600.2950a(12)(b) and (13). The fact that the petitioner may take a copy of the PPO to a law enforcement agency for LEIN entry does *not* relieve the court clerk of the responsibility for doing so.

- The court clerk must notify the designated law enforcement agency upon receipt of proof of service on the restrained person. MCL 600.2950(19)(a) and MCL 600.2950a(16)(a).

- The court clerk must notify the designated law enforcement agency if the court terminates, modifies, or extends the PPO.* MCL 600.2950(19)(b) and MCL 600.2950a(16)(b).

*See Section 15.17 on termination, extension, and modification of a PPO.

The PPO statutes do not specify any particular law enforcement agency that must be designated for purposes of LEIN entry. In choosing an agency, a court might consider the need for immediate enforcement of the PPO and ready access to information by police officers in the area where the petitioner is living.

The LEIN policy council recommends that the PPO contain the following information:

- Respondent's name.

- The specific month, day, and year of expiration. PPOs with specific date provisions are more readily enforced than are orders of "permanent" or "99 years" duration.

- Physical description of the respondent, e.g., height, weight, race, sex, hair color, eye color. Although information regarding race and sex is required, most jurisdictions will accept approximate physical descriptions for LEIN entry.

- Date of birth or age of respondent. In most jurisdictions, an approximate age or date of birth will suffice for LEIN entry.

- Other identifying information, e.g., scars, tattoos, physical deformities, nicknames.

- The respondent's social security and driver's license numbers, if known. This information is helpful, but not required for LEIN entry.

Although the LEIN policy council discourages local agencies from requiring additional information for LEIN entry, some agencies may nonetheless do so.

Note: In cases where the petitioner cannot provide the respondent's address, some courts request local law enforcement agencies to look up this information in the Law Enforcement Information Network (LEIN) system. Because disclosure of any LEIN information to any non-criminal justice agency is a misdemeanor (MCL 28.214(3)), courts following this practice should take care not to include the respondent's address in the petitioner's copy of the PPO. Address information obtained from the LEIN system should only be included on the copy given to a law enforcement agency for purposes of LEIN entry or service of the PPO. The document containing the respondent's address should then be designated non-public information and treated as such for purposes of public access.

15.15 Service of the Petition and Order

*The clerk must notify the LEIN agency upon receipt of the proof of service. See Section 15.14, above.

The petitioner is responsible to arrange for service of the PPO (and the underlying petition, if the PPO was issued ex parte) on the respondent. Service may be made by any legally competent adult who is not a party to the action. MCR 2.103(A). The petitioner is also responsible for filing the proof of service with the clerk of the court issuing the PPO. MCL 600.2950(18), MCL 600.2950a(15), MCR 3.705(A)(4), and MCR 3.706(D).*

Note: A PPO is effective and enforceable upon a judge's signature without written or oral notice to the respondent, so that failure to make service does not affect the PPO's validity or effectiveness. MCR 3.705(A)(4) and MCR 3.706(D). Nonetheless, the petitioner should have the respondent served with the PPO if at all possible because service facilitates its enforcement both in Michigan and in other states.

Pursuant to MCR 3.705(A)(4) and 3.706(D), service of the PPO may be made as provided in MCR 2.105(A):

- By delivery to the respondent personally, or
- By registered or certified mail, return receipt requested, and delivery restricted to the addressee. Service is made when the respondent acknowledges receipt of the mail. A copy of the return receipt signed by the respondent must be attached to the proof showing service.

If the respondent is under age 18, and the whereabouts of the respondent's parent or parents, guardian, or custodian is known, service must also be similarly made on one of these individuals. MCR 3.706(D).

On an appropriate showing, the court may allow service of the petition and order in another manner as provided in MCR 2.105(I). MCR 3.705(A)(4) and MCR 3.706(D). MCR 2.105(I) provides:

> "(1) On a showing that service of process cannot reasonably be made as provided . . . the court may by order permit service of process to be made in any other manner reasonably calculated to give the [respondent] actual notice of the proceedings and an opportunity to be heard.
>
> "(2) A request for an order under the rule must be made in a verified motion dated not more than 14 days before it is filed. The motion must set forth sufficient facts to show that process cannot be served under this rule and must state the [respondent's] address or last known address, or that no address of the [respondent] is known. If the name or present address of the [respondent] is unknown, the moving party must set forth facts showing diligent inquiry to ascertain it. A hearing on the motion is not required unless the court so directs.
>
> "(3) Service of process may not be made under this subrule before entry of the court's order permitting it."

If the respondent has not been served, a law enforcement officer* or clerk of the court may make service as follows:

*State Police officers may serve a PPO. MCL 28.6(5).

> "If the individual restrained or enjoined has not been served, a law enforcement officer or clerk of the court who knows that a personal protection order exists may, at any time, serve the individual restrained or enjoined with a true copy of the order or advise the individual restrained or enjoined about the existence of the personal protection order, the specific conduct enjoined, the penalties for violating the order, and where the individual restrained or enjoined may obtain a copy of the order. . . ." MCL 600.2950(18) and MCL 600.2950a(15).

If the respondent has not been served and a law enforcement officer is called to the scene of an alleged violation of the PPO, MCL 600.2950(22) and MCL 600.2950a(19) provide that the officer may give the respondent oral notice of the PPO. If oral notice is made in this manner, the law enforcement officer must file proof of the notification with the court. MCR 3.706(E). To ensure LEIN entry, the court clerk must then notify the designated law enforcement agency upon receipt of the proof of service. MCL 600.2950(19)(a) and MCL 600.2950a(16)(a).

15.16 Dismissal of a PPO Action

Dismissals of PPO actions are governed by MCR 3.704 and MCR 3.705(A)(5) and (B). These rules apply to:

- voluntary and involuntary dismissals of PPO actions,
- domestic relationship and non-domestic stalking petitions, regardless of the age of the petitioner, and
- actions with adult respondents and respondents under age 18.

A. Involuntary Dismissal

An involuntary dismissal of a PPO action can *only* be initiated by the court under the following circumstances:

- The court has determined after interviewing the petitioner that the petitioner's claims are sufficiently without merit that the action should be dismissed without a hearing. MCR 3.705(A)(5) and (B)(1).
- The petitioner has failed to attend a hearing scheduled on the petition. In this situation, the court may *either* adjourn and reschedule the hearing *or* dismiss the petition. MCR 3.705(B)(4).

The respondent is not permitted to move for dismissal of a PPO action prior to issuance of the order. MCR 3.704.

PPO actions are not subject to dismissal for no progress or failure to serve a respondent under MCR 2.502 or MCR 2.102(E).* Moreover, the court rules governing PPO actions make no provision for court clerks to sign dismissals of PPO petitions prior to issuance of the order.

*Note that failure to serve the PPO does not affect its validity or effectiveness. MCR 3.705(A)(4) and MCR 3.706(D).

The inapplicability of the no progress court rules should not prevent the court from administratively closing PPO cases for statistical purposes. When the court administratively closes a case, any PPO issued will remain in effect until its expiration date, and if modification is necessary, the case may be reopened on the merits. See the following:

- The case may be closed 21 days after a PPO petition is denied, if no hearing is requested. MCR 3.705(A)(5).
- If a PPO petition is granted, the case may be closed 14 days after the date of service. See MCL 600.2950(13) and MCL 600.2950a(10), which give the respondent 14 days from the date of service or actual notice to file a motion to terminate or modify the PPO.

B. Voluntary Dismissal

MCR 3.704 permits the petitioner to move for dismissal of a PPO action prior to the issuance of an order. There is no fee for filing this motion. *Id.* Because most PPO petitions request ex parte relief, and because courts must take action on such petitions within 24 hours after filing (MCR 3.705(A)(1)), cases involving voluntary dismissal of the petition will be relatively rare. If the petition is set for hearing, however, a petitioner may move the court to dismiss the petition before the hearing takes place. MCR 3.704 makes no provision for the respondent to move for dismissal of a PPO action prior to issuance of the order.

Because MCR 3.704 provides that a PPO action "may only be dismissed upon motion by the petitioner," the court should not permit:

- dismissal without a court order upon filing of a notice of dismissal as described in MCR 2.504(A)(1)(a), or
- stipulated dismissals without a court order as described in MCR 2.504(A)(1)(b).

15.17 Motion to Modify, Terminate, or Extend a PPO

Modification or termination of a PPO is governed by the PPO statutes and by MCR 3.707. These authorities apply to:

- Domestic relationship and non-domestic stalking petitions, regardless of the age of the petitioner, and
- Actions with adult parties and parties under age 18. However, petitioners who are minors or legally incapacitated individuals must proceed through a next friend. MCR 3.707(C). MCR 3.703(F) governs proceedings through a next friend, and is discussed in Section 15.11(A), above.

A. Time and Place to File Motion

The following timelines apply to motions to modify, terminate, or extend a PPO. There are no motion fees for filing any of these motions. MCR 3.707(D) and MCL 600.2529(1)(e).

Petitioner's motion to modify or terminate. Under MCR 3.707(A)(1)(a), a petitioner may file a motion to modify or terminate a PPO and request a hearing at any time after the PPO is issued. Although an earlier version of MCR 3.707 required that a motion to modify or terminate a PPO had to be filed with the issuing court, the current version of MCR 3.707(A)(1)(a) does not specify where the motion must be filed.

Petitioner's motion to extend the PPO. The petitioner may file an ex parte motion to extend the effectiveness of a PPO, without a hearing, by requesting a new expiration date. This motion must be filed with the court that issued the PPO no later than three days prior to the order's expiration date. Failure to timely file this motion does not preclude the petitioner from commencing a new PPO action regarding the same respondent. MCR 3.707(B)(1).

The court must act on the petitioner's motion to extend the PPO within three days after it is filed. *Id*.

*See also MCL 600.2950(13) and MCL 600.2950a(10).

Respondent's motion to modify or terminate the PPO. Under MCR 3.707(A)(1)(b), the respondent may file a motion to modify or terminate a PPO and request a hearing within 14 days after receipt of service or actual notice of the PPO. This 14-day period may be extended upon good cause shown.* Unlike an earlier version of MCR 3.707 that required a motion to modify or terminate a PPO to be filed with the issuing court, the current version of MCR 3.707(A)(1)(a) does not specify where the respondent's motion must be filed.

> **Note:** As a practical matter, the court may have difficulty determining when the PPO was served, which in turn causes difficulty in determining whether the respondent's motion for modification or termination was timely filed. Given the practical difficulties of determining when service occurs, and the "good cause" exception to the statutory 14-day limit, court clerks should be instructed to accept respondents' motions for filing even if they are submitted more than 14 days after service. This practice will allow a judicial determination of whether "good cause" exists to extend the 14-day filing period.

B. Time to Hold Hearings

Under MCR 3.707(A)(2), the court must schedule and hold a hearing on a motion to terminate or modify a PPO within 14 days of the filing of the motion. See also MCL 600.2950(14) and MCL 600.2950a(11).

C. Service of Motion Papers

Motion to modify or terminate a PPO. MCR 3.707(A)(1)(c) requires the moving party to serve the motion and notice of hearing at least seven days before the hearing date.

MCR 3.707(A)(1)(c) further requires that service of the motion and notice of hearing be effected by registered or certified mail, return receipt requested, and delivery restricted to the addressee, pursuant to MCR 2.105(A)(2). On an appropriate showing, the court may allow service in another manner under MCR 2.105(I), which provides:

> "(1) On a showing that service of process cannot reasonably be made as provided . . . the court may by order permit service of process to be made in any other manner reasonably calculated to give the [respondent] actual notice of the proceedings and an opportunity to be heard.
>
> "(2) A request for an order under the rule must be made in a verified motion dated not more than 14 days before it is filed. The motion must set forth sufficient facts to show that process cannot be served under this rule and must state the [respondent's] address or last known address, or that no address of the [respondent] is known. If the name or present address of the [respondent] is unknown, the moving party must set forth facts showing diligent inquiry to ascertain it. A hearing on the motion is not required unless the court so directs.
>
> "(3) Service of process may not be made under this subrule before entry of the court's order permitting it."

In cases involving a respondent under age 18, a good practice might be to make service on both the respondent and the respondent's parent or parents, guardian, or custodian, if practicable. See MCR 3.705(B)(2) (service of notice of hearing on issuance of PPO on respondent's parent, guardian, or custodian) and MCR 3.706(D) (service of PPO on respondent's parent, guardian, or custodian).

If the court grants modification or termination, the modified or terminated order must be served under MCR 2.107, which permits service by delivery to a party or an attorney for a party, or by first class mail. MCR 3.707(A)(3).

Notice of extension of a PPO. If the expiration date on a PPO is extended, an amended order must be entered. The order must be served on the respondent as provided in MCR 2.107, which permits service by delivery to a party or an attorney for a party, or by first class mail. MCR 3.707(B)(2).

D. Burden of Proof

In *Pickering v Pickering*, ___ Mich App ___, (2002), the Court of Appeals held that the burden of justifying the continuation of an ex parte PPO is on the petitioner. The court indicated that because the PPO statute and court rules governing motions to rescind or terminate PPOs are silent as to the burden of proof, MCR 3.310(B)(5) is controlling.

MCR 3.310(B)(5) provides, in part:

> ". . . At a hearing on a motion to dissolve a restraining order granted without notice, the burden of justifying

> continuation of the order is on the applicant for the restraining order whether or not the hearing has been consolidated with a hearing on a motion for a preliminary injunction or an order to show cause."

In *Pickering*, the Court of Appeals indicated that the burden of proof has two aspects: the "burden of persuasion" and the "burden of going forward with evidence." *Id at* ___. In the context of a PPO granted ex parte, the "burden of persuasion" is the burden of justifying the continuation of the PPO. The "burden of persuasion" requires the petitioner to demonstrate that the PPO should continue because it is "just, right or reasonable." *Id.* at ___. Regarding the "burden of going forward with the evidence," the Court held that although it would "not offend MCR 3.310(B)(5) by placing the burden of first coming forward with evidence on defendant, we believe it would be more appropriate in these hearings to have the petitioner—who has the burden of justification throughout the proceedings—to also be the party to first come forward with evidence." *Id*. at ___ n 1.

E. LEIN Entry

If the court modifies or terminates a PPO, or if the expiration date on a PPO is extended, the clerk must immediately notify the designated law enforcement agency of the court's order for entry into the LEIN system. MCR 3.707(A)(3), MCR 3.707(B)(2), MCL 600.2950(19)(b), and MCL 600.2950a(16)(b).

15.18 Initiation of Proceedings to Enforce a Minor PPO

Requests for court action to enforce a PPO against a respondent under age 18 may be in writing by way of a supplemental petition containing a specific description of the facts constituting the alleged violation. MCR 3.983(A). The supplemental petition may be submitted only by the original petitioner, a law enforcement officer, a prosecuting attorney, a probation officer, or a caseworker. *Id.* The court rules set forth two scenarios for filing the supplemental petition:

- The person who originally petitioned for the PPO files a supplemental petition. In this case, the court may either issue a summons for the respondent to appear at a hearing on the petition or issue an order authorizing a peace officer to apprehend the respondent. MCR 3.983(A).
- The respondent is apprehended without a court order as authorized by MCL 712A.14(1). In this case, the apprehending officer must ensure that a supplemental petition is filed. MCR 3.984(B)(4).

A. Original Petitioner Initiates Proceeding by Filing a Supplemental Petition

If the original petitioner files the supplemental petition in a court other than the one that issued the minor PPO, the contempt proceeding shall be entitled "In the Matter of Contempt of [Respondent], a minor." The clerk shall provide a copy of the contempt proceeding to the issuing court. MCR 3.982(C).

Upon receipt of the supplemental petition, MCR 3.983(B)(1)–(2) require the court to either:

- set a date for a preliminary hearing on the petition, to be held as soon as practicable, and issue a summons to appear, or
- issue an order authorizing a peace officer or other person designated by the court to apprehend the respondent.

Apprehension of the respondent. MCL 712A.2c authorizes a court to issue an order for apprehension of a minor who allegedly violates a PPO, as follows:

> "The court may issue an order authorizing a peace officer or other person designated by the court to apprehend a juvenile who is . . . alleged to have violated a personal protection order issued under [MCL 712A.2(h)], or is alleged to have violated a valid foreign protection order. The order shall set forth specifically the identity of the juvenile sought and the house, building, or other location or place where there is probable cause to believe the juvenile is to be found. A person who interferes with the lawful attempt to execute an order issued under this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both."

If the court issues an order to apprehend the respondent, MCR 3.983(D)(a)–(b) provide that the order may include authorization to:

- "[E]nter specified premises as required to bring the minor before the court;" and
- "[D]etain the minor pending preliminary hearing if it appears there is a substantial likelihood of retaliation or continued violation."

An officer who apprehends a minor respondent under a court order must immediately do the following:

- If the whereabouts of the respondent's parent or parents, guardian, or custodian is known, inform them of the respondent's apprehension and of his or her whereabouts, and of the need for them to be present at the preliminary hearing. MCR 3.984(B)(1).
- Take the respondent before the court for a preliminary hearing, or to a place designated by the court pending the scheduling of a preliminary hearing. MCR 3.984(B)(2).
- Prepare a custody statement for submission to the court. The statement must include a) the grounds for and the time and location of detention, and b) the names of persons notified and the times of notification, or the reason for failure to notify. MCR 3.984(B)(3).

While awaiting arrival of the parent or parents, guardian, or custodian, appearance before the court, or otherwise, a minor respondent under 17 years of age must be maintained separately from adult prisoners to prevent any verbal, visual, or physical contact with an adult prisoner. MCR 3.984(C).

If the respondent is apprehended for an alleged violation of a PPO in a jurisdiction other than the one in which the PPO was issued, the apprehending jurisdiction may notify the issuing jurisdiction that it may request the respondent's return to the issuing jurisdiction for enforcement proceedings. MCR 3.984(E).

MCR 3.984(E) does not specify which agency within the "apprehending jurisdiction" is responsible for providing notice. However, once the preliminary hearing has been held, MCL 764.15b(6) and MCR 3.985(H) place this responsibility upon the court. MCR 3.984(E) also makes no mention of which jurisdiction bears the costs of transportation if the issuing jurisdiction requests the respondent's return from the jurisdiction where he or she was apprehended. Where notice is provided by the circuit court under MCL 764.15b(6), the issuing jurisdiction bears this expense.

*See Section 6.5 for discussion of the requirements for service of a summons.

Service of supplemental petition and summons on respondent. MCR 3.920(B)(2)(c) states that "[i]n a personal protection order enforcement proceeding involving a minor respondent, a summons must be served on the minor. A summons must also be served on the parent or parents, guardian, or legal custodian, unless their whereabouts remain unknown after diligent inquiry." If the court sets a date for a preliminary hearing after receipt of the supplemental petition filed by the original petitioner, the petitioner is responsible for service upon the respondent, and, if the relevant addresses are known or easily ascertainable upon diligent inquiry, on the respondent's parent or parents, guardian, or custodian. Service must be made at least seven days before the preliminary hearing, in the manner provided in MCR 3.920.* MCR 3.983(C).

B. Proceedings Initiated by Apprehension of Respondent Without a Court Order

MCL 712A.14(1) authorizes apprehension of a minor respondent for an alleged violation of a PPO as follows:

> "Any local police officer, sheriff or deputy sheriff, state police officer, county agent or probation officer of any court of record may, without the order of the court, immediately take into custody any child who is found violating any law or ordinance, or whose surroundings are such as to endanger his or her health, morals, or welfare, or for whom there is reasonable cause to believe is violating or has violated a personal protection order issued pursuant to [MCL 712A.2(h)] by the court under [MCL 600.2950 and MCL 600.2950a], or for whom there is reasonable cause to believe is violating or has violated a valid foreign protection order."

MCL 712A.14(1) makes no mention of the PPO statutes' provisions for oral notice at the scene of an alleged PPO violation in situations where a minor respondent has not been served with the PPO or received notice of it. The oral notice provisions in the PPO statutes refer to MCL 712A.14 as if it were a separate proceeding: MCL 600.2950(22) and MCL 600.2950a(19) state that "[t]his subsection does not preclude . . . a proceeding under [MCL 712A.14]." In the absence of alternative specific oral notice procedures for minor respondents, it is consistent with due process to apply the notice provisions of MCL 600.2950(22) and MCL 600.2950a(19) in cases involving minor respondents. A PPO is immediately enforceable anywhere in Michigan by any law enforcement agency that has verified the existence of the order. MCL 600.2950(21) and MCL 600.2950a(18). This immediate enforceability applies to PPOs issued against a minor respondent, regardless of whether the respondent or his or her parent, guardian, or custodian has received notice of the PPO. MCL 600.2950(18) and MCL 600.2950a(15). Thus, the oral notice provisions in the PPO statutes are necessary in all cases to give effect to the immediate enforceability of a PPO consistent with due process. On due process concerns with PPOs, see *Kampf v Kampf*, 237 Mich App 377, 383–85 (1999). See also MCR 3.982(A), which states that "[a] minor personal protection order is enforceable under MCL 600.2950(22), (25), and MCL 600.2950a(19), (22), MCL 764.15b, and MCL 600.1701 *et seq*."

Once a minor respondent has been apprehended without a court order, the apprehending officer may warn and release the minor. MCR 3.984(A). If the minor is taken into custody, MCL 712A.14(1) provides for the following procedures:

- The apprehending officer shall immediately attempt to notify the parent or parents, guardian, or custodian.

- While awaiting the arrival of the parent or parents, guardian, or custodian, a child under the age of 17 years shall not be held in any detention facility unless the child is completely isolated so as to prevent any verbal, visual, or physical contact with any adult prisoner.

- Unless the child requires immediate detention as provided for in the Juvenile Code, the officer shall accept the written promise of the parent or parents, guardian, or custodian to bring the child to the court at a time fixed therein. The child shall then be released to the custody of the parent or parents, guardian, or custodian. In the context of PPO enforcement proceedings, detention is authorized under the Juvenile Code when the respondent has "allegedly violated a personal protection order and . . . it appears there is a substantial likelihood of retaliation or continued violation." MCL 712A.15(2)(f).

Further procedures appear in MCR 3.984(B)–(C), which state in part:

> "(B) **Custody; Detention.** When an officer apprehends a minor in relation to a minor personal protection order pursuant to a court order that specifies that the minor is to be brought directly to court; or when an officer apprehends a minor for an alleged violation of a minor personal protection order without a court order, and either the officer has failed to obtain a written promise from the minor's parent, guardian, or custodian to bring the minor to court, or it appears to the officer that there is a substantial likelihood of retaliation or violation by the minor, the officer shall immediately do the following:
>
> > "(1) If the whereabouts of the minor's parent or parents, guardian, or custodian is known, inform the minor's parent or parents, guardian, or custodian of the minor's apprehension and of the minor's whereabouts and of the need for the parent or parents, guardian, or custodian to be present at the preliminary hearing;
> >
> > "(2) Take the minor
> >
> > (a) before the court for a preliminary hearing, or
> >
> > (b) to a place designated by the court pending the scheduling of a preliminary hearing;
> >
> > "(3) Prepare a custody statement for submission to the court including:
> >
> > (a) the grounds for and the time and location of detention, and

> (b) the names of persons notified and the times of notification, or the reason for failure to notify.
>
> "(4) Ensure that a supplemental petition is prepared and filed with the court.
>
> "(C) While awaiting arrival of the parent, guardian, or custodian, appearance before the court, or otherwise, a minor under 17 years of age must be maintained separately from adult prisoners to prevent any verbal, visual, or physical contact with an adult prisoner."

The court must designate a judge, referee or other person who may be contacted by the officer taking a minor under age 17 into custody when the court is not open. In each county there must be a designated facility open at all times at which an officer may obtain the name of the person to be contacted for permission to detain the minor pending preliminary hearing. MCR 3.984(D).

If the respondent is apprehended for an alleged violation of a PPO in a jurisdiction other than the one in which the PPO was issued, the apprehending jurisdiction may notify the issuing jurisdiction that it may request the respondent's return to the issuing jurisdiction for enforcement proceedings. MCR 3.984(E).

MCR 3.984(E) does not specify which agency within the "apprehending jurisdiction" is responsible for providing notice. However, once the preliminary hearing has been held, MCL 764.15b(6) and MCR 3.985(H) place this responsibility upon the circuit court. MCR 3.984(E) also makes no mention of which jurisdiction bears the costs of transportation if the issuing jurisdiction requests the respondent's return from the jurisdiction where he or she was apprehended. Where notice is provided by the circuit court under MCL 764.15b(6), the issuing jurisdiction bears this expense.

If the supplemental petition is filed in a court other than the one that issued the minor PPO, the contempt proceeding shall be entitled "In the Matter of Contempt of [Respondent], a minor." The clerk shall provide a copy of the contempt proceeding to the issuing court. MCR 3.982(C).

15.19 Preliminary Hearings

A. Preliminary Hearing May Be Held in Jurisdiction Where Order Was Issued or Where Respondent Was Apprehended

A preliminary hearing (as well as a violation hearing) on an alleged PPO violation may take place in either the issuing jurisdiction or the jurisdiction where a minor respondent was apprehended. MCL 764.15b(6) provides:

> "The family division of circuit court has jurisdiction to conduct contempt proceedings based upon a violation of a personal protection order issued pursuant to [MCL 712A.2(h)], by the family division of circuit court in any county of this state. The family division of circuit court that conducts the preliminary inquiry shall notify the family division of circuit court that issued the personal protection order that the issuing court may request that the respondent be returned to that county for violating the personal protection order. If the family division of circuit court that issued the personal protection order requests that the respondent be returned to that court to stand trial, the county of the requesting court shall bear the cost of transporting the respondent to that county."

*A similar optional notice provision applies at the time the minor is apprehended. See MCR 3.984(E).

See also MCR 3.985(H), which provides that if a minor respondent is apprehended for an alleged PPO violation in a jurisdiction other than the one in which the PPO was issued, the apprehending jurisdiction must notify the issuing jurisdiction that it may request the respondent's return for enforcement proceedings immediately after the preliminary hearing, if the apprehending jurisdiction has not previously done so.*

B. Time Requirements

If the minor respondent was not taken into court custody or jailed for an alleged PPO violation, "the preliminary hearing must commence as soon as practicable after the apprehension or arrest, or submission of a supplemental petition." MCR 3.985(A)(1).

If the minor respondent was apprehended with or without a court order for an alleged PPO violation and was taken into court custody or jailed, "the preliminary hearing must commence no later than 24 hours after the minor was apprehended or arrested, excluding Sundays and holidays, as defined in MCR 8.110(D)(2), or the minor must be released." MCR 3.985(A)(1).

The court may adjourn the hearing for up to 14 days to secure the attendance of witnesses or the minor's parent, guardian, or custodian or for other good cause shown. MCR 3.985(A)(2).

C. Required Procedures

Presence of parent. The court shall determine whether the parent, guardian, or custodian has been notified and is present. The preliminary hearing may be conducted without a parent, guardian, or custodian if a guardian ad litem or attorney appears with the minor. MCR 3.985(B)(1).

Reading the allegations and advising the respondent of his or her rights. Unless waived by the respondent, the court shall read the allegations in the

supplemental petition and ensure that the respondent has received written notice of the alleged violation. MCR 3.985(B)(2). Immediately after reading the allegations, the court shall advise the respondent on the record in plain language of the following rights listed in MCR 3.985(B)(3):

- The respondent may contest the allegations at a violation hearing.
- The respondent has the right to an attorney at every stage in the proceedings. If the court determines that it might sentence the respondent to jail or place the respondent in secure detention, the court will appoint a lawyer at public expense if the respondent wants one and is financially unable to retain one.
- The respondent has the right to a non-jury trial.
- A referee may be assigned to hear the case unless demand for a judge is filed in accordance with MCR 3.912.*
- The respondent may have witnesses against him or her appear at a violation hearing. The respondent may question the witnesses.
- The respondent may have the court order that any witnesses for his or her defense must appear at the hearing.
- The respondent has the right to remain silent, and to not have his or her silence used against him or her.
- Any statement the respondent makes may be used against him or her.

*See Section 7.10.

Authorization of the supplemental petition. At the preliminary hearing, the court must decide whether to authorize the filing of the supplemental petition and proceed formally, or to dismiss the supplemental petition. MCR 3.985(B)(4).

> **Note:** MCR 3.985(B)(4) does not mention proceedings on the consent calendar or under the Juvenile Diversion Act.* Compare MCR 3.935(B)(3), which provides for these options in delinquency proceedings.

*See Sections 4.4 and 4.5.

If the court authorizes filing of the supplemental petition, MCR 3.985(B)(6) requires the following:

- The court must set a date and time for the violation hearing, or, following a plea, either enter a dispositional order, or set the matter for dispositional hearing; and
- The court must either release the respondent subject to conditions or order detention of the respondent pending the violation hearing.

At the preliminary hearing, the court must state the reasons for its decision to release the minor, or to detain the minor, on the record or in a written memorandum. MCR 3.985(G).

*See Section 15.20, below.

Opportunity to deny or otherwise plead to the allegations. The court must allow the respondent the opportunity to deny or otherwise plead to the allegations of the supplemental petition. If the respondent wants to enter a plea of admission or nolo contendere, the court shall follow MCR 3.986.* MCR 3.985(B)(5).

If the respondent denies the allegations in the supplemental petition, the court must make the following notices after the preliminary hearing, as required by MCR 3.985(C):

- Notify the prosecuting attorney of the scheduled violation hearing.
- Notify the respondent, his or her attorney, if any, and his or her parent(s), guardian, or custodian of the scheduled violation hearing, and direct the parties to appear at the hearing and give evidence on the contempt charges.
- Cause notice of the hearing to be given by personal service or ordinary mail at least seven days before the violation hearing, unless the respondent is detained, in which case notice of hearing must be served at least 24 hours before the hearing.

D. Release of Respondent With Conditions Pending Violation Hearing

MCR 3.985(E) governs the conditional release of a respondent to a parent, guardian, or custodian pending the resumption of the preliminary hearing or pending the violation hearing. In setting release conditions, the court must consider available information on the following factors set forth in this court rule:

- Family ties and relationships.
- The respondent's prior juvenile delinquency or minor PPO record, if any.
- the respondent's record of appearance or nonappearance at court proceedings.
- The violent nature of the alleged violation.
- The respondent's prior history of committing acts that resulted in bodily injury to others.
- The respondent's character and mental condition.

- The court's ability to supervise the respondent if placed with a parent or relative.
- The likelihood of retaliation or violation of the PPO by the respondent.
- Any other factors indicating the respondent's ties to the community, the risk of nonappearance, and the danger to the respondent or the original petitioner if the respondent is released.

Bail procedure is the same as in juvenile delinquency proceedings.*

*See Section 5.13(B).

E. Detention Pending Violation Hearing

MCL 712A.15(2) provides as follows:

> "Custody, pending hearing, is limited to the following children:
>
> > "(a) Those whose home conditions make immediate removal necessary.
> >
> > "(b) Those who have a record of unexcused failures to appear at juvenile court proceedings.
> >
> > "(c) Those who have run away from home.
> >
> > "(d) Those who have failed to remain in a detention or nonsecure facility or placement in violation of a court order.
> >
> > "(e) Those whose offenses are so serious that release would endanger public safety.
> >
> > "(f) Those who have allegedly violated a personal protection order and for whom it appears there is a substantial likelihood of retaliation or continued violation."

MCR 3.985(F)(1) prohibits removal of a minor from his or her parent, guardian, or custodian pending a PPO violation hearing or further court order unless the following circumstances exist:

> "(a) probable cause exists to believe the minor violated the minor personal protection order; and
>
> "(b) at the preliminary hearing the court finds one or more of the following circumstances to be present:
>
> > "(i) there is a substantial likelihood of retaliation or continued violation by the minor who

> allegedly violated the minor personal protection order;
>
> "(ii) there is a substantial likelihood that if the minor is released to the parent, with or without conditions, the minor will fail to appear at the next court proceeding; or
>
> "(iii) detention pending violation hearing is otherwise specifically authorized by law."

A minor in custody may waive the probable cause phase of a detention determination only if the minor is represented by an attorney. MCR 3.985(F)(2).

At the preliminary hearing, the respondent may contest the sufficiency of evidence to support detention by cross-examination of witnesses, presentation of defense witnesses, or other evidence. The court shall permit the use of subpoena power to secure attendance of defense witnesses. A finding of probable cause may be based on hearsay evidence that possesses adequate guarantees of trustworthiness. MCR 3.985(F)(3).

A respondent who is detained must be placed in the least restrictive environment that will meet the needs of the respondent and the public, and that will conform to the requirements of MCL 712A.15 and MCL 712A.16. MCR 3.985(F)(4).

Regarding the environment for detention in cases involving alleged PPO violations, MCL 712A.15 provides as follows, in pertinent part:

> "(3) A child taken into custody pursuant to section 2(a)(2) to (4) of this chapter [governing status offenses] . . . shall not be detained in any secure facility designed to physically restrict the movements and activities of alleged or adjudicated juvenile offenders unless the court finds that the child willfully violated a court order and the court finds, after a hearing and on the record, that there is not a less restrictive alternative more appropriate to the needs of the child. This subsection does not apply to a child who is under the jurisdiction of the court pursuant to section 2(a)(1) of this chapter [governing delinquency cases] or a child who is not less than 17 years of age and who is under the jurisdiction of the court pursuant to a supplemental petition under section 2(h) of this chapter [governing minor PPOs].*
>
> ...
>
> "(5) A child taken into custody pursuant to section 2(a)(2) to (4) of this chapter [governing status offenses] .

*Since its first sentence does not mention minor PPOs, it is not clear whether this subsection applies to children less than 17 who have allegedly violated a PPO.

> . . shall not be detained in a cell or other secure area of any secure facility designed to incarcerate adults unless either of the following applies:
>
> > (a) A child is under the jurisdiction of the court pursuant to section 2(a)(1) of this chapter [governing delinquency cases] for an offense which, if committed by an adult, would be a felony.
> >
> > (b) A child is not less than 17 years of age and is under the jurisdiction of the court pursuant to a supplemental petition under section 2(h) of this chapter [governing minor PPOs]."

MCL 712A.15(5)(b) is consistent with provisions of the PPO statutes that impose adult penalties on persons age 17 and over who violate a PPO. See MCL 600.2950(23) and MCL 600.2950a(20). It is also consistent with provisions governing detention conditions for persons age 17 and over who have been apprehended without a court order for an alleged PPO violation.

MCL 712A.16 provides as follows:

> "(1) If a juvenile under the age of 17 years is taken into custody or detained, the juvenile shall not be confined in any police station, prison, jail, lock-up, or reformatory or transported with, or compelled or permitted to associate or mingle with, criminal or dissolute persons. However, except as otherwise provided in section 15(3), (4), and (5) of this chapter, the court may order a juvenile 15 years of age or older whose habits or conduct are considered a menace to other juveniles, or who may not otherwise be safely detained, placed in a jail or other place of detention for adults, but in a room or ward separate from adults and for not more than 30 days, unless longer detention is necessary for the service of process."*

*See also MCL 764.27a(2) (juveniles confined in a jail or other adult place of detention must be in a room or ward out of sight and sound of adults).

MCL 712A.16(2) provides in pertinent part that the court or court-approved agency may arrange for the boarding of juveniles in any of the following:

- A child caring institution or child placing agency licensed by the department of consumer and industry services to receive for care juveniles within the court's jurisdiction.
- If in a room or ward separate and apart from adult criminals, the county jail for juveniles over 17 years of age within the court's jurisdiction.

F. Respondent Fails to Appear at Preliminary Hearing

If the respondent was notified of the preliminary hearing and fails to appear for it, the court may issue an order to apprehend the respondent. MCR 3.985(D). This order is to be issued in accordance with MCR 3.983(D), which is discussed at Section 15.18(A), above. MCR 3.985(D) further provides that:

- If the respondent is under age 17, the court may order him or her to be detained pending a hearing on the apprehension order. If the court releases the respondent, it *may* set bond for the respondent's appearance at the violation hearing.
- If the respondent is 17 years old, the court may order him or her to be confined to jail pending a hearing on the apprehension order. If the court releases the respondent, it *must* set bond for the respondent's appearance at the violation hearing.

15.20 Pleas of Admission or No Contest

*See Sections 8.4(B) for discussion of these requirements in the context of a delinquency case.

A minor may offer a plea of admission or no contest to the violation of a minor PPO with the court's consent. The court shall not accept a plea to a violation unless it is satisfied that the plea is accurate, voluntary, and understanding. MCR 3.986(A).*

The court may accept a plea of admission or no contest conditioned on preservation of an issue for appellate review. MCR 3.986(B).

The court shall inquire of the parent, guardian, custodian, or guardian ad litem whether he or she knows any reason why the court should not accept the plea tendered by the minor respondent. Agreement or objection by the parent, guardian, custodian, or guardian ad litem to a minor's plea of admission or no contest must be placed on the record if he or she is present. MCR 3.986(C).

The court may take a plea of admission or no contest under advisement. Before the court accepts the plea, the minor may withdraw the plea offer by right. After the court accepts the plea, the court has discretion to allow the minor to withdraw a plea. MCR 3.986(D).

15.21 Required Procedures at Violation Hearings

A. Time Requirements

MCR 3.987(A) provides that upon completion of the preliminary hearing, the court shall set a date and time for the violation hearing if the respondent

denies the allegations in the supplemental petition. This rule further provides the following limits for holding the violation hearing:

- If the respondent is detained, the hearing must be held within 72 hours of apprehension, excluding Sundays and holidays.
- If the respondent is not detained, the hearing must be held within 21 days.

B. Role of Prosecuting Attorney at Violation Hearing

MCR 3.914(E) states that "[t]he prosecuting attorney shall prosecute criminal contempt proceedings as provided in MCR 3.987(B)."

MCR 3.987(B) states that "[i]f a criminal contempt proceeding is commenced under MCL 764.15b, the prosecuting attorney shall prosecute the proceeding unless the petitioner retains an attorney to prosecute the criminal contempt proceeding. If the prosecuting attorney determines that the personal protection order was not violated or that it would not be in the interest of justice to prosecute the criminal contempt violation, the prosecuting attorney need not prosecute the proceeding."

C. Preliminary Matters

There is no right to a jury trial at PPO violation hearings with a minor respondent. MCR 3.987(D).

The respondent has the right to be present at the hearing, to present evidence, and to examine and cross-examine witnesses. MCR 3.987(E).

At the violation hearing, the court shall do all of the following:

- Determine whether all parties have been notified and are present. The respondent has the right to be present at the violation hearing along with a parent, guardian, or custodian, and with a guardian ad litem and attorney. The court may proceed in the absence of a parent properly noticed to appear, provided the respondent is represented by an attorney. The original petitioner also has the right to be present at the violation hearing. MCR 3.987(C)(1).
- Read the allegations in the supplemental petition, unless waived. MCR 3.987(C)(2).
- Inform the respondent of the right to the assistance of an attorney, unless legal counsel appears with the respondent. MCR 3.987(C)(3).

- Inform the respondent that if the court determines it might sentence the respondent to jail or place him or her in secure detention, the court will appoint a lawyer at public expense if the respondent wants one and is financially unable to retain one. If the respondent requests to proceed without the assistance of counsel, the court must advise him or her of the dangers and disadvantages of self-representation, and make sure the respondent is literate and competent to conduct the defense. *Id.*

D. Rules of Evidence and Burden of Proof

The rules of evidence apply to both criminal and civil contempt proceedings. MCR 3.987(F).

The petitioner or prosecuting attorney has the burden of proving the respondent's guilt of criminal contempt beyond a reasonable doubt, and the respondent's guilt of civil contempt by a preponderance of the evidence. *Id.*

E. Findings of Fact and Conclusions of Law

At the conclusion of the hearing, the court must make specific findings of fact, state separately its conclusions of law, and direct entry of the appropriate judgment. The court must state its findings and conclusions on the record or in a written opinion made a part of the record. MCR 3.987(G).

15.22 Dispositional Hearings

A. Time Requirements

MCR 3.988(A) provides the following time intervals between the entry of a judgment finding a violation of a minor PPO and any disposition:

- If the minor is not detained, the time interval may not be more than 35 days.
- If the minor is detained, the time interval may not exceed 14 days, except for good cause.

B. Required Procedures

The petitioner has the right to be present at the dispositional hearing. MCR 3.988(B)(2). The respondent may be excused from part of the dispositional hearing for good cause, but must be present when the disposition is announced. MCR 3.988(B)(1).*

At the dispositional hearing, the court may receive all relevant and material evidence, including oral and written reports. The court may rely on such evidence to the extent of its probative value, even though it may not be admissible at the violation hearing. MCR 3.988(C)(1).

The respondent or his or her attorney and the petitioner shall be afforded an opportunity to examine and controvert written reports received by the court. In the court's discretion, they may also be allowed to cross-examine individuals making reports when such individuals are reasonably available. MCR 3.988(C)(2).

No assertion of an evidentiary privilege, other than the privilege between attorney and client, shall prevent the receipt and use at the dispositional phase of material prepared pursuant to a court-ordered examination, interview, or course of treatment. MCR 3.988(C)(3).

*The rules governing dispositional hearings in minor PPO proceedings are substantially similar to those governing dispositional hearings in juvenile delinquency proceedings. See Section 10.6.

C. Possible Sentences or Juvenile Dispositions

Respondent 17 years of age or older. MCL 600.2950(23) and MCL 600.2950a(20) provide for criminal contempt sanctions as follows:

> "An individual who is 17 years of age or more and who refuses or fails to comply with a personal protection order issued under this section is subject to the criminal contempt powers of the court and, if found guilty of criminal contempt, *shall* be imprisoned for not more than 93 days and may be fined not more than $500.00." [Emphasis added.]

MCR 3.988(D)(1) states that the court "may" impose a 93-day prison sentence. Since the penalty for a PPO violation is not a matter of "practice and procedure," the statutory provision should control. See MCR 1.103.

Respondents imprisoned under the foregoing provisions may be committed to a county jail within the adult prisoner population. MCR 712A.18(1)(e).

MCR 3.988(D)(2)(a) provides for civil contempt sanctions as follows:

> "(2) If a minor respondent pleads or is found guilty of civil contempt, the court shall

> "(a) impose a fine or imprisonment as specified in MCL 600.1715 and 600.1721, if the respondent is at least 17 years of age."

In addition to the foregoing sanctions, the court may impose other conditions to the minor PPO as part of the disposition. MCR 3.988(D)(3).

Respondent under age 17. MCL 600.2950(23) and MCL 600.2950a(20) provide for sanctions against respondents under age 17 who violate a PPO as follows:

> "An individual who is less than 17 years of age who refuses or fails to comply with a personal protection order issued under this section is subject to the dispositional alternatives listed in [MCL 712A.18]."

MCR 3.988(D) makes no provision for criminal contempt sanctions against a minor respondent under age 17. Consistent with the PPO statutes, however, MCR 3.988(D)(2)(b) subjects such respondents to the dispositional alternatives under the Juvenile Code, as follows:

> "(2) If a minor respondent pleads or is found guilty of civil contempt, the court shall
>
> > "(b) subject the respondent to the dispositional alternatives listed in MCL 712A.18, if the respondent is under 17 years of age."

Minor respondents in PPO actions are subject to the contempt powers of the court. See MCL 712A.26, which provides that "[t]he court shall have the power to punish for contempt of court under [MCL 600.1701 to 600.1745], any person who willfully violates, neglects, or refuses to obey and perform any order or process the court has made or issued to enforce this chapter."

In addition to the foregoing sanctions, the court may impose other conditions to the minor PPO as part of the disposition. MCR 3.988(D)(3).

Dispositional alternatives under the Juvenile Code. MCL 600.2950(23), MCL 600.2950a(20), and MCR 3.988(D)(2)(b) provide that a respondent under 17 years of age who violates a PPO is subject to the dispositional alternatives listed in MCL 712A.18.* MCL 712A.18(1)(c) (placement of a juvenile in "a suitable foster care home subject to the court's supervision") and MCL 712A.18(1)(e) (commitment of a juvenile to a "public institution, county facility, institution operated as an agency of the court or county, or agency authorized by law to receive juveniles of similar age, sex, and characteristics") specifically mention PPO violations. Three of the dispositional alternatives listed in MCL 712A.18(1)(*l*)-(n) do not apply to PPO violators. These are boot camp, parental participation in treatment, and imposition of a sentence that could have been imposed on an adult for the same offense.

*See Section 10.9 for detailed discussion of these alternatives. For discussion of the costs of disposition and orders for reimbursement, see Chapter 11.

Orders for restitution. Under the general contempt provisions of the Revised Judicature Act, the court must order an individual convicted of contempt to pay compensation for the injury caused by his or her behavior. See MCL 600.1721. Minor respondents in PPO actions are subject to the contempt powers of the court. See MCL 712A.26.

Restitution provisions are also found in MCL 712A.18(7) and 712A.30 for "juvenile offense[s]," which are defined as "violation[s] by a juvenile of a penal law of this state or a violation of an ordinance of a local unit of government of this state punishable by imprisonment or by a fine that is not a civil fine." MCL 712A.30(1). The applicability of these provisions in PPO enforcement proceedings is unclear.*

*See Section 10.12 for discussion of restitution under the Crime Victim's Rights Act for offenses that would be criminal if committed by an adult.

MCL 769.1f allows a court to order a person convicted of an enumerated offense to reimburse the state or a local unit of government for law enforcement, emergency medical response, fire department, prosecutorial, and other expenses incurred in relation to the incident.

Probation violations and supplemental dispositions. MCR 3.989 provides that when a minor placed on probation for violation of a minor PPO has allegedly violated a condition of probation, the court shall follow the procedures for supplemental disposition outlined in MCR 3.944.*

*See Chapter 13.

15.23 Procedures for Enforcing Foreign Protection Orders

Jurisdiction to enforce valid foreign protection orders. The Family Division has jurisdiction to conduct proceedings to enforce a valid foreign protection order (FPO) against a respondent who is less than 18 years old. MCL 712A.2(h) and MCL 764.15b(6). "Foreign protection order" is defined in MCL 600.2950h. MCL 712A.1(1)(d). An FPO is:

> "[A]n injunction or other order issued by a court of another state, Indian tribe, or United States territory for the purpose of preventing a person's violent or threatening acts against, harassment of, contact with, communication with, or physical proximity to another person. Foreign protection order includes temporary and final orders issued by civil and criminal courts (other than a support or child custody order issued pursuant to state divorce and child custody laws, except to the extent that such an order is entitled to full faith and credit under other federal law), whether obtained by filing an independent action or by joining a claim to an action, if a civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection." MCL 600.2950h(a).

To be valid, an FPO must satisfy the conditions set forth in MCL 600.2950i. MCL 712A.1(1)(g). All of the following conditions must be met for an FPO to be valid:

> "(a) The issuing court had jurisdiction over the parties and subject matter under the laws of the issuing state, tribe, or territory.
>
> "(b) Reasonable notice and opportunity to be heard is given to the respondent sufficient to protect the respondent's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided to the respondent within the time required by state or tribal law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights. MCL 600.2950i(1)(a)–(b).

A valid FPO must be accorded full faith and credit and is subject to the same enforcement procedures and penalties as a PPO issued in this state. MCL 600.2950j(1). The invalidity of an FPO may be raised as an affirmative defense in an enforcement proceeding, but a law enforcement officer does not have to determine an order's validity at an arrest scene. See MCL 600.2950i.

Enforcement of a FPO. Law enforcement officers, prosecuting attorneys, and courts must enforce FPOs using the same procedures used to enforce a PPO issued in Michigan. MCL 600.2950*l*(1).

MCL 600.2950*l* sets forth the procedures to be used at the scene of an alleged violation of a FPO. That statute states in relevant part:

> "(3) A law enforcement officer may rely upon a copy of any protection order that appears to be a foreign protection order and that is provided to the law enforcement officer from any source if the putative foreign protection order appears to contain all of the following:
>
> (a) The names of the parties.
>
> (b) The date the protection order was issued, which is prior to the date when enforcement is sought.
>
> (c) The terms and conditions against respondent.
>
> (d) The name of the issuing court.

(e) The signature of or on behalf of a judicial officer.

(f) No obvious indication that the order is invalid, such as an expiration date that is before the date enforcement is sought.

"(4) The fact that a putative foreign protection order that an officer has been shown cannot be verified on L.E.I.N. or the NCIC national protection order file is not grounds for a law enforcement officer to refuse to enforce the terms of the putative foreign protection order, unless it is apparent to the officer that the putative foreign protection order is invalid. A law enforcement officer may rely upon the statement of petitioner that the putative foreign protection order that has been shown to the officer remains in effect and may rely upon the statement of petitioner or respondent that respondent has received notice of that order.

"(5) If a person seeking enforcement of a foreign protection order does not have a copy of the foreign protection order, the law enforcement officer shall attempt to verify through L.E.I.N., or the NCIC protection order file, administrative messaging, contacting the court that issued the foreign protection order, contacting the law enforcement agency in the issuing jurisdiction, contacting the issuing jurisdiction's protection order registry, or any other method the law enforcement officer believes to be reliable, the existence of the foreign protection order and all of the following:

(a) The names of the parties.

(b) The date the foreign protection order was issued, which is prior to the date when enforcement is sought.

(c) Terms and conditions against respondent.

(d) The name of the issuing court.

(e) No obvious indication that the foreign protection order is invalid, such as an expiration date that is before the date enforcement is sought.

"(6) If subsection (5) applies, the law enforcement officer shall enforce the foreign protection order if the existence of the order and the information listed under subsection (5) are verified, subject to subsection (9).

"(7) If a person seeking enforcement of a foreign protection order does not have a copy of the foreign protection order, and the law enforcement officer cannot verify the order as described in subsection (5), the law enforcement officer shall maintain the peace and take appropriate action with regard to any violation of criminal law.

"(8) When enforcing a foreign protection order, the law enforcement officer shall maintain the peace and take appropriate action with regard to any violation of criminal law. The penalties provided for under sections 2950 and 2950a and chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, may be imposed in addition to a penalty that may be imposed for any criminal offense arising from the same conduct.

"(9) If there is no evidence that the respondent has been served with or received notice of the foreign protection order, the law enforcement officer shall serve the respondent with a copy of the foreign protection order, or advise the respondent about the existence of the foreign protection order, the name of the issuing court, the specific conduct enjoined, the penalties for violating the order in this state, and, if the officer is aware of the penalties in the issuing jurisdiction, the penalties for violating the order in the issuing jurisdiction. The officer shall enforce the foreign protection order and shall provide the petitioner, or cause the petitioner to be provided, with proof of service or proof of oral notice. The officer also shall provide the issuing court, or cause the issuing court to be provided, with a proof of service or proof of oral notice, if the address of the issuing court is apparent on the face of the foreign protection order or otherwise is readily available to the officer. If the foreign protection order is entered into L.E.I.N. or the NCIC protection order file, the officer shall provide the L.E.I.N. or the NCIC protection order file entering agency, or cause the L.E.I.N. or NCIC protection order file entering agency to be provided, with a proof of service or proof of oral notice. If there is no evidence that the respondent has received notice of the foreign protection order, the respondent shall be given an opportunity to comply with the foreign protection order before the officer makes a custodial arrest for violation of the foreign protection order. The failure to comply immediately with the foreign protection order is grounds for an immediate custodial arrest. This subsection does not preclude an arrest under section 15 or 15a of chapter

IV of the code of criminal procedure, 1927 PA 175, MCL 764.15 and 764.15a, or a proceeding under section 14 of chapter XIIA of the code of criminal procedure, 1927 PA 175, MCL 712A.14."

Mutual FPOs. A mutual FPO is not enforceable against the person who petitioned for the order unless the petitioner's spouse or intimate partner" filed a separate written pleading and the issuing court made specific findings supporting relief for both parties. MCL 600.2950k(2)(a)–(b). See MCL 600.2950k(3)(a)–(e) for the applicable definition of "spouse or intimate partner."

15.24 Table of Time and Notice Requirements in Minor PPO Proceedings

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
Ruling on Request for Ex Parte PPO	Within 24 hours of the filing of the petition.	MCR 3.705(A)(1). **See Section 15.11(F)**

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
Hearing on the Issuance of a PPO	If the petition does not request an ex parte order, or if the court denies petitioner's request for an ex parte order and petitioner requests a hearing, a hearing must be held as soon as possible. If the petitioner does not request a hearing within 21 days of entry of the court's order denying the request for an ex parte PPO, the court's order is final. The court does not have to schedule a hearing if it determines after interviewing the petitioner that the claims are sufficiently without merit that the action should be dismissed without a hearing. The petitioner must arrange for service of the petition and notice of hearing to be served on the respondent at least one day before the hearing. Service must be personal service or by registered or certified mail, delivery restricted to addressee. If the whereabouts of respondent's parent, guardian, or custodian is known, service must also be made on one of these individuals in the same manner.	MCR 3.705(A)(5) and (B)(1). **See Section 15.12** MCR 3.705(B)(2) and MCR 2.105(A). **See Section 15.12(B)**

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
Service of the Petition and Order	Service must be personal service or by registered or certified mail, delivery restricted to addressee. If the whereabouts of respondent's parent, guardian, or custodian is known, service must also be made on one of these individuals in the same manner.	MCR 3.705(A)(4) and MCR 3.706(D). **See Section 15.15**
	On a showing that service of process cannot reasonably be made as required above, the court may order service in any other manner reasonably calculated to give the respondent actual notice of the proceedings and opportunity to be heard. A request for an order permitting alternate service must be made in a verified motion dated not more than 14 days before it is filed. The motion must set forth sufficient facts to show that process cannot be served under this rule and must state the respondent's address or last known address, or that no address of the respondent is known. If the name or present address of the respondent is unknown, the moving party must set forth facts showing diligent inquiry to ascertain it.	MCR 2.105(I). **See Section 15.15**
	If the respondent has not been served, a law enforcement officer or clerk of the court may serve respondent at any time with a true copy of the order or advise respondent of the existence and content of the order.	MCL 600.2950(18) and MCL 600.2950a(15). **See Section 15.15**

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
Motions to Modify, Terminate, or Extend a PPO	The petitioner may file a motion to modify or terminate a PPO and request a hearing at any time after the order is entered. The respondent may file a motion to modify or terminate a PPO and request a hearing within 14 days after receipt of service or actual notice of the PPO. This 14-day period may be extended for good cause shown. The court must hold a hearing within 14 days of the filing of the motion.	MCR 3.707(A)(1)(a)–(b) and 3.707(A)(2). **See Section 15.17(A)**
	The moving party must serve the motion and notice of hearing at least seven days before the hearing date. Service must be by registered or certified mail, delivery restricted to addressee.	MCR 3.707(A)(1)(c) and MCR 2.105(A)(2). **See Section 15.17(C)**
	On a showing that service of process cannot reasonably be made as required above, the court may order service in any other manner reasonably calculated to give the respondent actual notice of the proceedings and opportunity to be heard. A request for an order permitting alternate service must be made in a verified motion dated not more than 14 days before it is filed. The motion must set forth sufficient facts to show that process cannot be served under this rule and must state the respondent's address or last known address, or that no address of the respondent is known. If the name or present address of the respondent is unknown, the moving party must set forth facts showing diligent inquiry to ascertain it.	MCR 2.105(I). **See Section 15.17(C)**

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
Motions to Modify, Terminate, or Extend a PPO, continued	If the whereabouts of respondent's parent, guardian, or custodian is known, service should also be made on one of these individuals in the same manner. A modified or terminated PPO must be served by delivery to a party or the party's attorney, or by first-class mail. The petitioner may file an ex parte motion to extend the expiration date of a PPO. The motion must be filed no later than three days prior to the orders expiration date. The court must act on the petitioner's motion within three days after it is filed. If the expiration date is extended, the modified order must be served by delivery to a party or the party's attorney, or by first-class mail.	See MCR 3.705(B)(2) and MCR 3.706(B). **See Section 15.17(C)** MCR 3.707(A)(3) and MCR 2.107. **See Section 15.17(C)** MCR 3.707(B)(1). **See Section 15.17(A)** MCR 3.707(B)(2) and MCR 2.107. **See Section 15.17(C)**
Preliminary Hearing (When Minor Is in Custody)	If the minor is in custody, the hearing must commence within 24 hours, excluding Sundays and holidays, or the minor must be released. The hearing may be adjourned for up to 14 days to secure attendance of minor's parent or witnesses, or for other good cause shown.	MCR 3.985(A)(1)–(2). **See Section 15.19(B)**

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
Preliminary Hearing (When Minor Is Not in Custody)	If the minor is not in custody, the hearing must commence as soon as practicable after submission of a supplemental petition, or after the minor's apprehension or arrest. The hearing may be adjourned for up to 14 days to secure attendance of minor's parent or witnesses, or for other good cause shown. Personal service of the supplemental petition and summons must be made on the respondent and, if the relevant addresses are know or are easily ascertainable upon diligent inquiry, respondent's parent, guardian, or custodian, at least seven days before the preliminary hearing. A summons must be served on the minor. A summons must also be served on the parent or parents, guardian, or legal custodian, unless their whereabouts remain unknown after a diligent search.	MCR 3.985(A)(1)–(2). **See Section 15.19(B)** MCR 3.983(B) and MCR 3.920(2)(c). **See Section 15.19(C)**
Demand for Trial by Judge (Rather Than Referee)	Written demand for trial by judge rather than referee shall be filed within 14 days after court gives notice of the right to trial by a judge or 14 days after an appearance by an attorney, whichever is later, but no later than 21 days before trial. The court may excuse a late filing in the interest of justice.	MCR 3.912(B). **See Section 7.10**

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
Violation Hearing	If the respondent is detained, the hearing must be held within 72 hours of apprehension, excluding Sundays and holidays. If the respondent is not detained, the hearing must be held within 21 days. If the respondent is detained, the court must cause notice of the hearing to be given by personal service or ordinary mail at least 24 hours before the hearing. If the respondent is not detained, the court must cause notice of the hearing to be given by personal service or ordinary mail at least seven days before the hearing. The prosecuting attorney, the respondent, respondent's attorney, and respondent's parent, guardian, or custodian must be notified of the hearing.	MCR 3.987(A). **See Section 15.21(A)** MCR 3.985(C). **See Section 15.21(A)**
Dispositions	If the minor is detained, the hearing must be held within 14 days, except for good cause. If the minor is not detained, the hearing must be held within 35 days. At least 7 days' notice in writing or on record must be given to juvenile, custodial parent or guardian, or legal custodian, noncustodial parent who has requested notice at a hearing or in writing, guardian ad litem, attorney for juvenile, prosecuting attorney, and petitioner.	MCR 3.988(A). **See Section 15.22(A)** MCR 3.920(C)(1) and 3.921(A)(1). **See Sections 6.3 and 6.7**
Review of Referee's Recommended Findings and Conclusions	Request for review must be filed within 7 days after the inquiry or hearing or 7 days after issuance of referees' recommendations, whichever is later, and served on interested parties, and a response may be filed within 7 days after the filing of the request for review. Absent good cause for delay, the judge must consider the request within 21 days after it is filed if juvenile is in placement or detention.	MCR 3.991(B)(3), 3.991(B)(4), and 3.991(C). **See Sections 12.7 and 12.8** MCR 3.991(D). **See Section 12.8**